



DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 75

RIN 0991-AC16

Grants Regulation; Removal of Non-Discrimination Provisions and Repromulgation of Administrative Provisions under the Uniform Grant Regulation

AGENCY: Assistant Secretary for Financial Resources (ASFR), Health and Human Services (HHS or the Department).

ACTION: Notification; postponement of effectiveness.

SUMMARY: The U.S. District Court for the District of Columbia in *Facing Foster Care et al. v. HHS*, 21-cv-00308 (DDC Feb. 2, 2021), has postponed the effectiveness of portions of the final rulemaking amendments to the Uniform Administrative Requirements, promulgated on January 12, 2021. Those provisions are now effective April 18, 2022.

DATES: Pursuant to court order, the effectiveness of the final rule published January 12, 2021, at 86 FR 2257, is postponed until April 18, 2022.

FOR FURTHER INFORMATION CONTACT: Johanna Nestor at Johanna.Nestor@hhs.gov or 202-205-5904.

SUPPLEMENTARY INFORMATION: On January 12, 2021, the Department issued amendments to and repromulgated portions of the Uniform Administrative Requirements, 45 CFR part 75. 86 FR 2257. That rule repromulgated provisions of part 75 that were originally published late in 2016. It also made amendments to 45 CFR 75.300 (c) and (d).

Specifically, the rule amended paragraph (c), which previously provided that it is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services based on non-merit factors such as age, disability, sex, race, color, national origin, religion, gender identity, or sexual orientation. The paragraph further provided that recipients must comply with the public policy requirement in the administration of programs supported by HHS awards. The rule amended paragraph (c) to provide that it is a public policy requirement of HHS that no person otherwise eligible will be excluded from participation in, denied the benefits of, or subjected to discrimination in the administration of HHS programs and services, to the extent doing so is prohibited by Federal statute.

Additionally, the rule amended paragraph (d), which previously provided that in accordance with the Supreme Court decisions in *United States v. Windsor* and in *Obergefell v. Hodges*, all recipients must treat as valid the marriages of same-sex couples. The paragraph further provided that it did not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under state law as something other than a marriage. The rule amended paragraph (d) to provide that HHS will follow all applicable Supreme Court decisions in administering its award programs.

On February 2, the portions of rulemaking amendments to §75.300 (and a conforming amendment at §75.101(f)) were challenged in the U.S. District Court for the District of Columbia. *Facing Foster Care et al. v. HHS*, 21-cv-00308 (D.D.C. filed Feb. 2, 2021). On February 9, the court postponed, pursuant to 5 U.S.C. 705, the effective date of the challenged portions of the rule by 180 days, until August 11, 2021.¹ On August 5, the court again postponed the effective date of the rule until November 9, 2021.² On November 3, the court further

¹ See Order, *Facing Foster Care et al. v. HHS*, No. 21-cv-00308 (D.D.C. Feb. 2, 2021) (order postponing effective date), ECF No. 18.

² See Order, *Facing Foster Care et al. v. HHS*, No. 21-cv-00308 (D.D.C. Aug. 5, 2021) (order postponing effective date), ECF No. 23.

postponed the effective date of the rule until January 17, 2022.³ On December 27, the court further postponed the effective date of the rule until April 18, 2022.⁴ The Department is issuing this notification to apprise the public of the court's order.

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Xavier Becerra,

Secretary

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³ See Order, *Facing Foster Care et al. v. HHS*, No. 21-cv-00308 (D.D.C. Nov. 3, 2021) (order postponing effective date), minute order.

⁴ See Order, *Facing Foster Care et al. v. HHS*, No. 21-cv-00308 (D.D.C. Dec. 27, 2021) (order postponing effective date and holding the case in abeyance), ECF No. 30.